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Navy Case No. 82,918

PATENTS

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of

William M. Appleman, et al.

Serial No. 09/879,870

Filed: June 13, 2001

For: ARRANGEMENT AND CONSTRUCTION
OF AN ELEMENT BUNDLING MODULE

:
: Group Art Unit: 1723
: Examiner: Krishnan S. Menon
: CONFIRMATION NO. 4961

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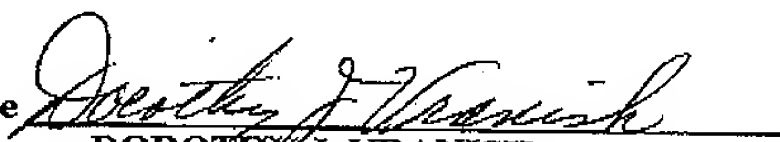
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OF AN ELEMENT BUNDLING MODULE :

REPLY BRIEF

Commissioner for Patents
P.O. Box 1450
Alexandria, Va. 22313-1450

Sir:

This Reply Brief is submitted in response to the Examiner's Answer (paper No. 1103) dated Dec. 4, 2003 in the above identified application under appeal.

The arguments hereinafter submitted in behalf of Appellants are related to those set forth in the Examiner's Answer under Issues A, B, C and D, listed under Appellants' statement of Issues in the Appeal Brief held to be correct on page 2 of the Examiner's Answer.

(A) On page 3 of the Examiner's Answer, support for the final rejection of claims 2 and 3 on appeal under 35 U.S.C. 112, second paragraph was predicated on an interpretation of a quoted recitation in claim 2. On pages 3-4 of the Appeal Brief Appellants explicitly set forth the reasons why such interpretation of the claim recitation in question is in error. In response to such explanation by Appellants as to misinterpretation of the claim recitation, the Examiner submits on page 6 of the Examiner's Answer a Response which fails to explicitly contest Appellants'

contention that the Examiner's interpretation of the claim recitation in question is in error because of its reliance on a non-existing circulation of fluid within the sealed chamber which would preclude drainage thereof from the sealed chamber after being laterally filtrated by elongated elements in such sealed chamber. Accordingly, such final rejection under 35 U.S.C. 112, second paragraph with respect to claims 2 and 3 remains unjustified.

(B) In support of the final rejection of claims 2 and 3 under 35 U.S.C. 102(e) over the Funatsu patent, on page 4 of the Examiner's Answer it is again erroneously asserted that the Funatsu patent discloses "drain for discharge of clean fluid (6, fig 1) as in claim 2". Such unsupported assertion is apparently based on the Examiner's resort to hindsight speculation, as indicated on page 7 of the Examiner's Answer by the statement: "Port (6) of Funatsu would be a drain means if Funatsu's apparatus is used for cleansing--". Appellants submit in regard to fluid cleansing as claimed, that Funatsu's apparatus cannot be used as speculated by the Examiner, since the infeed port (6) mounted on the housing (8) enclosing processing elements (2) as the structural components referred to by the Examiner, are separated by spacer (3) and sealing part (4) from outlet (8) (or drain) so as to form a structural arrangement different from that as set forth in claim 2.

As pointed out on pages 4-5 of the Appeal Brief, claim 2 further distinguishes structurally over the latter referred to structural arrangement disclosed in the Funatsu patent in regard to location of the drain means on a housing which encloses processing elements within a chamber sealed in the housing so as to discharge fluid from the sealed chamber after being cleansed by such processing elements.

(C) In an effort to support the final rejection of claims 2 and 3 over the Funatsu patent alternatively as obvious under 35 U.S.C. 103(a), on page 8 in the Examiner's Answer it is stated

that such alternative rejection was resorted to because of the Examiner's unsuccessful attempt to correct indefiniteness under 35 U.S.C. 112, second paragraph, and because of an improper assumption that contaminate-laden fluid is conducted through the processing elements, rather than filtrated laterally therethrough. Clearly such assumption from claims 2 and 3 is contrary to the disclosure in the present application and is therefore an improper and unsuitable basis for an obviousness rejection under 35 U.S.C. 103(a).

(D) In regard to the final rejections over the Garcera patent, it is conceded on page 8 of the Examiner's Answer that applicants' repeated assertion that the Garcera patent does not disclose lateral withdrawal of cleansed fluid for drainage from the housing has not been contested. The Examiner therefore belatedly directs attention to column 5, line 44 and to column 6, line 36 in the Garcera patent in regard to the disclosure of channels (2), filtrate elements (1) and outflow (4) through a port which are less relevant than the Garcera disclosure related to treatment of fluid within a tubular module (0) by circulation outflows (3) and (4) in perpendicular directions between the module (0) and some fluid transit or storage arrangement not shown. Such structural combination of components disclosed in the Garcera patent is utterly different from that set forth in claims 2 and 3 as hereinbefore pointed out.

Finally on page 9 of the Examiner's Answer, the Examiner briefly concludes without support that appellants' arguments rely solely on functional distinctions of claims 2 and 3 over the Funatsu and Garcera patents to the exclusion of structural aspects. Such conclusion is not only factually incorrect but does not establish any proper supporting basis for any of the various underlying grounds for the final rejections of record herein before dealt with.

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In view of the foregoing, reversal of the final rejections of claims 2 and 3 on appeal is in order and hereby respectfully requested.

Respectfully submitted,



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